

[ G. R. No. L-10122. August 30, 1958 ]

**LEE E. WON ALIAS RAMON LEE, PLAINTIFF AND APPELLANT, VS. WACK WACK GOLF & COUNTRY CLUB, INC., DEFENDANT AND APPELLEE.**

**D E C I S I O N**

**PARAS, C.J.:**

On December 2, 1942, the defendant (a non-stock corporation) issued to Iwao Teruyama Membership Certificate No. 201 which was assigned to M. T. Reyes on April 22, 1944. Subsequently in the same year 1944, M. T. Reyes transferred and assigned said certificate to the plaintiff. On April 26, 1955, the plaintiff filed an action in the Court of First Instance of Manila against the defendant, alleging that shortly after the rehabilitation of the defendant after the war, the plaintiff asked the defendant to register in its books the assignment in favor of the plaintiff and to issue to the latter a new certificate, but that the defendant had refused and still refuses to do so unlawfully; and praying that the plaintiff be declared the owner of one share of stock of the defendant and that the latter be ordered to issue a correspondent new certificate. On June 6, 1955, the defendant filed a motion to dismiss, alleging that from 1944, when the plaintiff's right of action had accrued, to April 26, 1955, when the complaint was filed, eleven years have elapsed, and that therefore the complaint was filed beyond the 5-year period fixed in Article 1149 of the Civil Code. On July 30, 1955, the Court of First Instance of Manila issued an order dismissing the complaint. As plaintiff's motion for reconsideration filed on August 27, 1955 and second motion for reconsideration filed on September 13, 1955, were both denied, the plaintiff has taken the present appeal.

The certificate in question contains a condition to the effect that no assignment thereof "shall be effective with respect to the club until such assignment is registered in the books of the club, as provided in the By-Laws." The decisive question that arises is whether the plaintiff was bound, under said condition and By-Laws of the defendant or any statutory rule for that matter, to present and register the certificate assigned to him in 1944 within any

definite or fixed period. The defendant has not made herein any pretense to that effect; but it contends that from the moment the certificate was assigned to the plaintiff, the latter's right to have the assignment registered commenced to exist. This contention is correct, but it would not follow that said right should be exercised immediately or within a definite period. The existence of a right is one thing, and the duration of said right is another.

On the other hand, it is stated in the appealed order of dismissal that the plaintiff sought to register the assignment on April 13, 1955; whereas in plaintiff's brief it is alleged that it was only in February, 1955, when the defendant refused to recognize the plaintiff. If, as already observed, there is no fixed period for registering an assignment, how can the complaint be considered as already barred by the Statute of Limitations when it was filed on April 26, 1955, or barely a few days (according to the lower court) and two months (according to the plaintiff), after the demand for registration and its denial by the defendant. Plaintiff's right was violated only sometime in 1955, and it could not accordingly have asserted any cause of action against the defendant before that.

The defendant seems to believe that the plaintiff was compelled immediately to register his assignment. Any such compulsion is obviously for the benefit of the plaintiff, because it is only after registration that the transfer would be binding against the defendant. But we are not here concerned with a situation where the plaintiff claims anything against the defendant allegedly accruing under the outstanding certificate in question between the date of the assignment to the plaintiff and the date of the latter's demand for registration and issuance of a new certificate.

The defendant has also intimated property holdings of Japanese nationals were vested after the liberation upon the Alien Property Administration or Custodian; that the plaintiff should have thereupon registered the assignment to him of Certificate No. 201 issued to Iwao Teruyama; and that in the meantime rights to said certificate by their pre-war registered American owners were filed with the defendant and correspondingly acted upon. These, however, are matters which may affect the validity of the assignment to the plaintiff or his right to register the same constituting special defenses, but certainly have no bearing on the question of prescription.

Wherefore, the appealed order is hereby reversed and the case remanded to the court of origin for further proceedings. So ordered with costs against the defendant.

*Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L.,*

*Endencia* and *Felix, JJ.*, concur.

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